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10/811,814

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Martin D. Ericsson

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EXAMINER

STRIMBU, GREGORY J

ART UNIT

PAPER NUMBER

3634

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
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3 MONTHS

01/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/811,814

Applicant(s)

ERICSSON ET AL.

Examiner

Gregory J. Strimbu

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2006 and 25 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the wall must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

Claims 11-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "persons positioned to pass through the passage" on line 11 of claim 11 render the claims indefinite because it is unclear what the applicant is attempting to set forth. Is a person in the same room as the door positioned to pass through the passage? Is a person in the same building as the door positioned to pass through the passage? Is the switch also accessible to infants? Recitations such as "attached to a wall" on line 2 of claim 13 render the claims indefinite because it is unclear if the applicant is claiming the subcombination of a power operating door apparatus or the combination of a power operating door apparatus and a wall. The preamble of claim 11 implies the subcombination while the positive recitation of the wall implies the combination. Recitations such as "the movable hinge shaft" on lines 8-9 of claim 14 render the claims indefinite because they lack antecedent basis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in figures 3 and 4 and Speer. The admitted prior art in figures 3 and 4 discloses an on-demand power-operating door apparatus comprising: a supporting structure 12 forming a passage (not numbered, but shown in figure 4); a door 14 mounted to the supporting structure by a hinge structure (not numbered, but shown in figures 3 and 4) defining a stationary vertical axis of rotation at the supporting structure and a movable vertical axis of rotation at the door, the door being swingable about the stationary and movable axes between a passage-closing position and a passage-opening position as shown in figure 4; and a power operator 20 for opening the door comprising: a motor (not shown, but see paragraph 21, line 3 of the instant application) mounted on the supporting structure, a manually operable switch 23 for energizing the motor and accessible to persons positioned to pass through the passage, and a linkage 21 having a first end operably connected to a drive shaft (not numbered, but shown in figure 3) of the motor to be rotated thereby, and a second end (not numbered, but shown in figure 3) arranged to push against the door, wherein the motor is operable to move the linkage from a first position to a second position corresponding respectively to the passage-closing and passage-opening positions of the door as shown in figure 4, and a closer spring (not shown, but see paragraph 21, lines 11-12 of the instant application) for returning the door from its passage-opening position to its passage-closing position, wherein the closer spring comprises a first closer spring, the apparatus further comprising a second closer spring (not shown, but see paragraph 21, line 9 of the instant application) for returning the linkage to its first position, the first

Art Unit: 3634

closer spring being weaker than the second closer spring (see paragraph 22, lines 1-4 of the instant application), wherein the supporting structure comprises a framework attached to a wall (not shown). The admitted prior art of figures 3 and 4 is silent concerning a manual opening of the door independent of the linkage.

However, Speer discloses a power operating door apparatus comprising a door 12, a power operator 32, a linkage 24 having a first end (not numbered, but shown attached to the pivot pin 22 in figure 2) and a second end 26 arranged to push against the door, wherein the operator is operable to move the linkage from a first position to a second position corresponding respectively to a passage closing and a passage opening positions of the door, the door being manually swingable from the passage-closing position to the passage-opening position independently of the linkage and being manually swingable to the passage-opening position regardless of the location of the linkage between the first and second positions thereof.

It would have been obvious to one of ordinary skill in the art to provide the second end of the linkage of the admitted prior art in figures 3 and 4 with a connection, as taught by Speer, to enable a user to operate the door without having to overcome the resistance of the operator.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in figures 3 and 4 and Speer, as applied to claims 11-13 above, and further in view of Catlett (US 3675370). Catlett discloses a balanced door 1 comprising

Art Unit: 3634

hinge arms 13 and 14 having a first end thereof affixed to a vertical hinge shaft 12 defining a stationary vertical axis of rotation.

It would have been obvious to one of ordinary skill in the art to provide the admitted prior art, as modified above, with a vertical hinge shaft, as taught by Catlett, to provide for the stable and synchronous pivoting of the hinge arms as the door is moved between opened and closed positions.

Response to Arguments

Applicant's arguments filed July 25, 2006 have been fully considered but they are moot in view of the new grounds of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3634

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gregory J. Strimbu
Primary Examiner
Art Unit 3634
January 17, 2007